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*Attorney for Plaintiff*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

<p>BRANDON KENNEDY, an individual,</p> <p>Plaintiff,</p> <p>vs.</p> <p>PROTECTION ONE ALARM MONITORING, INC, a Delaware corporation doing business in Utah, BRITE ENERGY SOLAR, INC., a Delaware corporation doing business in Utah, and JOHN DOES, individuals or entities 1 THROUGH 10, all whose names are unknown,</p> <p>Defendants.</p>	<p><b>MOTION TO EXTEND TIME PERIOD TO AMEND PLAINTIFF'S INITIAL PLEADINGS</b></p> <p>Civil No. 2:16-cv-00889</p> <p>Judge David Nuffer</p>
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Plaintiff, Brandon Kennedy, by and through counsel, pursuant to Rule 16(b)(4) of the Federal Rules of Civil Procedure, hereby requests the time period to amend his initial pleadings pursuant to the Scheduling Order (set for October 21, 2016) be extended so that he can amend presently (also with the Court's permission to amend, of course) his initial Complaint.

Plaintiff filed concurrently herewith his Motion (Second) for Leave for Amend his Complaint.

### **BACKGROUND/FACTS**

On October 19, 2016, Plaintiff filed a Motion for Reconsideration and a Motion for Leave to Amend his Complaint. Pursuant to the Scheduling Order entered by the Court in this case, the time period for Plaintiff to amend his initial pleadings in this case expired two days later, on October 21, 2016. The Court ruled recently (on December 30, 2016) that Plaintiff's Motion (First) for Leave to Amend was dismissed without prejudice for the expressed reason that Plaintiff's counsel failed to attach to that first Motion a proposed Amended Complaint, as is required by local Court rules.

### **ARGUMENT**

Rule 16(b)(4) of the Federal Rules of Civil Procedure provides that a scheduling order may be modified for good cause and with the judge's consent.

Plaintiff wishes to extend the time period in the Scheduling Order to amend his initial pleadings solely in order to amend his Complaint properly this time around. While this is a second request to amend his Complaint, Plaintiff's motive to amend is still the same as it was last time around, and such was particularly not made in bad faith, or with a dilatory motive, or to unduly delay this action. This second Motion is done simply and only to correct his counsel's earlier but botched attempt to amend (with the blame falling squarely on his counsel, not Plaintiff).

### **CONCLUSION**

In the interests of justice and to simply correct a procedural error made by counsel, and for good cause detailed herein (and in Plaintiff's Motion (Second) for Leave to Amend and supporting Memorandum) Plaintiff should be allowed to amend presently his Complaint (as was

timely attempted previously), but which cannot be done now without the Court's permission extending the time period in the Scheduling Order to file the same.

DATED this 9th day of January 2017.

By       /S/Kamron Keele        
Kamron A. Keele  
*Attorney for Plaintiff*

### **CERTIFICATE OF SERVICE**

I hereby certify that on this 9th day of January 2017, I caused to be served via the Court's electronic filing system a true and correct copy of the foregoing to be delivered to the following:

Robert O. Rice (#6639)

Elaina Maragakis (#7929)

Whitney Hulet Krogue (#15184)

\_\_\_\_\_/S/*Kamron Keele*\_\_\_\_\_  
Kamron Keele, Esq.